

Applicant: Hans-Peter Männer
Application No.: 10/616,824

REMARKS/ARGUMENTS

After the foregoing Amendment, claims 1-7 and 9-22 are currently pending in this application. Claims 1, 19 and 22 have been amended to more distinctly claim the subject matter of invention. Applicant submits that no new matter has been added by the present amendments.

Telephonic Interview

The Examiner is thanked for granting a telephonic interview with the Applicant's representative on January 17, 2007. During the interview, the structural differences between the present invention and the Babin reference were discussed as well as the current claim amendments which the Examiner indicated would obviate the rejections.

Claim Rejections - 35 USC §102

In the Action, claims 1 - 3, 5 - 7, 9 - 10, and 14 - 22, were rejected under 35 U.S.C §102(b) as anticipated by U.S. Patent No. 6,162,044 to Babin. Applicant respectfully traverses this rejection.

Babin discloses a valve gated injection molding apparatus having a heated nozzle with three valve pins arranged in a triangular formation at one end of the nozzle.

Babin fails to suggest or disclose an injection molding nozzle having at least two outlet openings (2) disposed opposite one another relative a center axis in an

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end region of the injection molding nozzle directed toward different sides of the nozzle. Furthermore, Babin is completely silent regarding a common drive element for displacing the closure needles in a closing direction, with the drive element being a displacement member movable between rear ends of the closure needles, and the drive element including a cross section that is at least one of a cone, conical, tapered, a cam disk and an eccentric disk as recited in each of independent claims 1, 9 and 22. As these elements are clearly absent from Babin, withdrawal of the Section 102 rejection in view of Babin is respectfully requested. Claims 2 - 7 and 10-21 depend from these claims, they should also be patentable over Babin.

Claims 1 - 7 and 9 - 22 were rejected in the Action under 35 U.S.C. § 102(b) as anticipated by EP 0 447 573 to Guenther.

Guenther discloses a hot runner nozzle (10) having conducting guide tips (28) on a thermally conductive mount (30). Guenther further fails to suggest or disclose a common drive element for displacing closure needles in a closing direction, the drive element being a displacement member movable between rear ends of the closure needles, and the drive element including a cross section that is at least one of a cone, conical, tapered, a cam disk and an eccentric disk, as currently recited in claim 1. Withdrawal of the Section 102 rejection in view of Guenther is respectfully requested.

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Claim Rejections - 35 USC §103

Claim 4 was again rejected under 35 U.S.C. §103(a) as being unpatentable over Babin in view of U.S. Patent No. 2,471,683 (Halbach). Applicant respectfully traverses this rejection.

As noted above, Babin fails to recite each and every feature of independent claim 1. Furthermore, Halbach fails to remedy the deficiencies of Babin since neither Babin nor Halbach show outlet openings (2) disposed opposite one another relative a center axis in an end region of the injection molding nozzle directed toward different sides of the nozzle. Furthermore, neither reference shows a common drive element for displacing closure needles in a closing direction, the drive element being a displacement member movable between rear ends of the closure needles, and the drive element including a cross section that is at least one of a cone, conical, tapered, a cam disk and an eccentric disk, as recited in the independent claims.

Thus, because claim 4 (dependent upon claim 1) includes further limitations that are neither disclosed nor suggested by Babin or Halbach, alone or in combination, *prima facie* obviousness cannot be established based on the cited references.

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Claims 11-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Babin in view of U.S. Patent No. 4,662,837 (Anderson). Applicant respectfully traverses this rejection.

Further to the above remarks, Anderson also fails to remedy the above-noted deficiencies of Babin. Specifically, Anderson fails to suggest or disclose an injection molding nozzle having at least two outlet openings (2) disposed opposite one another relative a center axis in an end region of the injection molding nozzle directed toward different sides of the nozzle, as recited in independent claim 1. Anderson also fails to suggest or disclose a common drive element for displacing closure needles in a closing direction, the drive element being a displacement member movable between rear ends of the closure needles, and the drive element including a cross section that is at least one of a cone, conical, tapered, a cam disk and an eccentric disk, as recited in claim 1.

Thus, because claims 11 - 13 (dependent upon claim 1) include further limitations that are neither disclosed nor suggested by Babin or Anderson, alone or in combination, *prima facie* obviousness cannot be established based on the cited references. Accordingly, Applicant respectfully submits that claims 11 and 13 should be allowed. Reconsideration of these claims is respectfully requested.

There is also no showing as to why or how these references could be combined to render the present invention obvious. It is well settled that the fact that the

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prior art must be modified to produce the claimed invention does not make the claimed invention obvious unless there is something in the prior art to suggest the desirability of making such a modification. *In re Laskowski*, 10 USPQ2d 1397, 1398 (Fed.Cir. 1980). A rejection based on Section 103 must rest on a factual basis, with the facts being interpreted without hindsight reconstruction of the invention from the prior art.

The initial duty is on the USPTO to supply the factual basis for the rejection advanced. It is not permissive because of doubts that the invention is patentable, to resort to speculation, unfounded assumptions, or hindsight reconstruction to supply deficiencies in the factual basis. *Ex parte Haymond*, 41 USPQ2d 1217 (BdPatApp&Int 1996). That is, there must be some logical reason apparent from positive, concrete evidence of record which justifies a suggestion to modify a prior art structure. See *In re Regel*, 188 USPQ 136, 139 (CCPA 1975). No such evidence to combine the references was provided in this case, which merely combined the two references after reviewing the claimed subject matter, without regard to providing a motivation for the combination or an explanation as to how all of the required claim elements are met.

Accordingly, withdrawal of the Section 103 rejection of claims 11 - 13 is respectfully requested.

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Conclusion

If the Examiner believes that any additional matters need to be addressed in order to place this application in condition for allowance, or that a telephone interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendment and remarks, Applicant respectfully submits that the present application, including claims 1 - 7 and 9 - 22, is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

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